

**KENTUCKY PERSONNEL BOARD
MINUTES OF MAY 9, 2014**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on May 9, 2014, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman
Larry B. Gillis, Vice Chairman
David B. Stevens, Member
David F. Hutcheson, Jr., Member
Tommy W. Chandler, Member
Donald W. "Don" Blevins, Member
Ramona Herndon, Member
Mark A. Sipek, Executive Director and Secretary
Boyce A. Crocker, General Counsel
Linda R. Morris, Administrative Section Supervisor
Cynthia Perkins, Administrative Specialist

2. **READING OF THE MINUTES OF REGULAR MEETING HELD APRIL 11, 2014**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Blevins moved to approve the minutes, as submitted. Dr. Stevens seconded and the motion carried 7-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Mr. Sipek reminded everyone that the next scheduled Board meeting is Monday, June 16, 2014.

Mr. Sipek advised that the Kentucky Association of Administrative Adjudicators (KAAA) training is today. Mr. Sipek stated that he and Mr. Crocker are on a panel and are scheduled to speak at 3:00 p.m.

Mr. Sipek stated the Personnel Board is continuing to receive applications from candidates for the Board elections and the closing date is May 15, 2014. Ballots will be accepted until close of business on June 13, 2014.

Due to more conservative scheduling, Mr. Sipek stated that the Board's budget situation is going well and there are sufficient funds to cover hearing officer expenses to the end of the fiscal year. The workload has remained consistent with last year.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

4. PERSONNEL CABINET'S REPORT

The Hon. Dinah Bevington, Executive Director, was present to provide the Personnel Cabinet's report.

Ms. Bevington stated that the Humana "Living Well Promise" health assessments were completed. There were about 128,000 employees completed assessments out of 134,000. Of note, 20,000 employees chose the standard program.

Ms. Bevington advised that due to the Budget Bill (HB 235) state employees will receive a raise on their increment date for the 2014-2015 fiscal year, a tiered amount (1% to 5%) determined by the employee's annual salary. The increment will take effect on the employee's increment date, which is the date the employee came off probation (not the hire date). A memo from the Personnel Cabinet will be sent to all employees. In the 2015-2016 fiscal year, all employees will receive 1% of their annual salary.

Again, in accordance with the Budget Bill, Ms. Bevington stated that the Personnel Cabinet will be sending out a memorandum to remind employees that the June 30th payroll will be deferred until Tuesday, July 1, 2014. Banking institutions were notified.

At the conclusion of the Personnel Cabinet's report, Chairman Sapp called the parties forward for oral arguments.

5. ORAL ARGUMENTS

A. Boone and Witt v. Kentucky Educational Television Authority and Personnel Cabinet

Present for oral arguments were counsel for Appellant Boone, the Hon. Robert Abell; Appellant Witt; and counsel for Appellee, the Hon. Brian Judy. After presenting oral arguments, the parties answered questions from the Board.

B. Laura Dennis v. Justice and Public Safety Cabinet (Corrections)

Present for oral arguments were Appellant Dennis and counsel for Appellee, the Hon. Angela Cordery. After presenting oral arguments, the parties answered questions from the Board.

C. Brian Easton v. Education and Workforce Development Cabinet

Present for oral arguments were counsel for Appellant, the Hon. Paul Fauri, and counsel for Appellee, the Hon. Rosemary Holbrook. After presenting oral arguments, the parties answered questions from the Board.

D. Jennifer Goins v. Cabinet for Health and Family Services

Present for oral arguments were Appellant Goins, counsel for Appellant, the Hon. Kyle Hall, and counsel for Appellee, the Hon. Carrie Cotton. After presenting oral arguments, the parties answered questions from the Board.

6. INVESTIGATIONS

Request for investigation referred by Executive Branch Ethics Commission
Against the Public Service Commission

--Executive Director's Investigation Recommendation

--Response of Public Service Commission and Connie Hunt

Mr. Sipek stated that the Board members had received his report and recommendation. Mr. Sipek stated that there were two questions: 1) Did the PSC's hiring of Connie Hunt as an Administrative Specialist I position violate KRS Chapter 18A and 2) Did PSC violate KRS Chapter 18A by wrongfully allowing (by showing favoritism) Ms. Hunt to complete her initial probationary period? Mr. Sipek stated that through conducting interviews he concluded that there was no violation of KRS Chapter 18A in either the hiring of Ms. Hunt or allowing her to gain status. At the request of Ms. Hunt, Mr. Sipek advised that wording was changed in the report and recommendation from "She described Ms. Smith as a 'bully' and stated that she felt she was working in a hostile work environment." to "Ms. Hunt stated that she felt 'bullied' and felt like she was working in a hostile work environment." Mr. Sipek felt that Ms. Hunt's request to amend the report was a fair one. Mr. Sipek advised the Executive Branch Ethics Commission meets in about ten days and would like to have the Board's report to discuss at that time. Mr. Crocker advised that the Board could discuss this matter in closed session.

Mr. Hutcheson made a motion to accept the Corrected Report and Recommendation. Mr. Gillis seconded and the motion carried 7-0.

The Board took a five-minute break before going into closed session.

7. **CLOSED SESSION**

Mr. Blevins moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Ms. Herndon seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (11:35 a.m.)

Dr. Stevens moved to return to open session. Mr. Blevins seconded and the motion carried 7-0. (12:35 p.m.)

8. **CASES TO BE DECIDED**

The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.

A. **Thomas Boone and James D. Witt v. Kentucky Educational Television Authority and Personnel Cabinet** (2011-197 and 2012-127)

Mr. Hutcheson moved to note Appellant Witt's exceptions, Appellant Boone's exceptions, KET's exceptions, Appellant Witt's response, KET's response to Boone's exceptions, KET's response to Witt's exceptions, oral arguments, and to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

B. **Laura Dennis v. Justice and Public Safety Cabinet (Corrections)** (2013-018)

Mr. Blevins moved to note Appellee's exceptions and oral arguments and to defer this matter to the next Board meeting. Dr. Stevens seconded and the motion carried 7-0.

C. **Brian Easton v. Education and Workforce Development Cabinet** (2013-061)

Mr. Hutcheson moved to note Appellee's Exceptions, Appellant's response, and oral arguments and to defer this matter to the next Board meeting. Dr. Stevens seconded and the motion carried 7-0.

D. **Jennifer Goins v. Cabinet for Health and Family Services** (2013-209)

Mr. Hutcheson moved to note Appellant's exceptions, Appellee's response, and oral arguments and to accept the recommended order dismissing the appeal. Ms. Herndon seconded and the motion carried 6-1, with Dr. Stevens opposing.

E. **Craig Hicks v. Justice and Public Safety Cabinet (Corrections) and Intervenor Kristy Hicks** (2013-261 and 2013-283)

Judge Chandler moved to accept the recommended order dismissing the appeals. Mr. Gillis seconded and the motion carried 7-0.

F. **Kathryn Parrish v. Office of the Attorney General** (2012-056) (salary discrepancies, discrimination – appeal dismissed)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Judge Chandler seconded and the motion carried 6-0, with Mr. Blevins recusing due to a business relationship with witnesses.

G. **Lana Rodgers v. Department of Veterans Affairs** (2013-202)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 7-0.

H. **Brady Smith v. Justice and Public Safety Cabinet (Corrections)** (2013-205)

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

I. **Jeffrey Streeval v. Justice and Public Safety Cabinet (Juvenile Justice)** (2013-004)

Mr. Blevins moved to accept the recommended order dismissing the appeal. Ms. Herndon seconded and the motion carried 7-0.

Show Cause Orders - Appeals Dismissed – No Response Filed

The following case had a show cause order entered by the hearing officer recommending that the appeal be dismissed for failure to timely prosecute unless a statement was filed by the Appellant stating sufficient cause to excuse her failure to appear at the scheduled hearing. There was no response submitted by the Appellant to the show cause order.

J. **Teresa Collins v. Department of Veterans Affairs** (2014-001)

Dr. Stevens moved to accept the recommended order dismissing the appeal for failure to timely prosecute as the Appellant had not responded to the show cause order. Mr. Gillis seconded and the motion carried 7-0.

9. **WITHDRAWALS**

Mr. Hutcheson moved to accept the following withdrawals of appeals *en bloc* and dismiss the appeals. Dr. Stevens seconded and the motion carried 7-0.

- A. Jose Aponte v. Public Protection Cabinet
- B. Kevin M. Carlin v. Public Protection Cabinet
- C. John Godbey v. Justice and Public Safety Cabinet (Corrections)
- D. Gary Glass, et al v. Finance and Administration Cabinet (6 appeals)
- E. Rachel Hughes v. Justice and Public Safety Cabinet (Corrections)
and Shea Holliman
- F. Joseph McKinney v. Finance and Administration Cabinet
- G. Alison Martinez v. Education and Workforce Development Cabinet
- H. David Newsom v. Justice and Public Safety Cabinet (Juvenile Justice)
- I. Brandy Turner v. Cabinet for Health and Family Services
- J. Brian Webb v. Justice and Public Safety Cabinet (Juvenile Justice)

10. **SETTLEMENTS**

Judge Chandler moved to accept the following settlements *en bloc* as submitted by the parties, and to sustain the appeals to the extent set forth in the settlements. Dr. Stevens seconded and the motion carried 7-0.

- A. John Michael Henderson, Jr. v. Justice and Public Safety Cabinet (Corrections)
- B. Alice Holbert v. Tourism, Arts and Heritage Cabinet (Dept. of Parks) (mediated)
- C. David Reno v. Justice and Public Safety Cabinet (Corrections)
- D. Lee Alan Crawley v. Public Protection Cabinet (2 appeals)

11. **OTHER**

Recommendation of Hearing Officers for FY 2015-16 and renewals.

Mr. Gillis moved to accept that the following persons be employed as hearing officers for the Personnel Board for the period of July 1, 2014, through June 30, 2016:

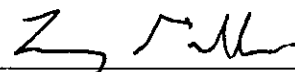
Colleen B. Beach
Geoffrey B. Greenawalt
Stephen T. McMurtry
Roland P. Merkel

E. Patrick Moores
Kim Hunt Price
John C. Ryan
R. Hanson Williams
Darren Embry
Brenda Dinkins Allen

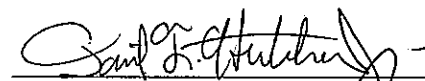
And further moved that the Executive Director of the Personnel Board be authorized to take the necessary actions and execute the necessary documents to effect the employment of these persons. Judge Chandler seconded and the motion carried 7-0.

There being no further business, Dr. Stevens moved to adjourn. Mr. Blevins seconded and the motion carried 7-0. (12:45 p.m.)

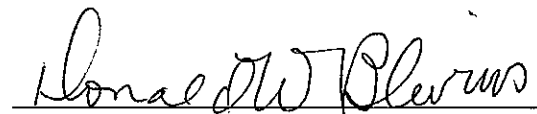

Wayne D. Sapp, Chairman

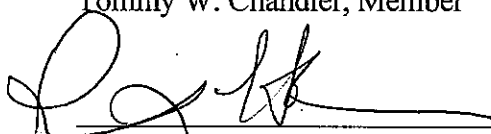

Larry Gillis, Vice Chairman

David B. Stevens, Member


David F. Hutcheson, Jr., Member

Tommy W. Chandler, Member


Donald W. Blevins, Member


Ramona Herndon, Member